HIGH COURT OF CHHATTISGARH : BILASPUR
Division Bench

Coram : **Hon'ble Shri H.L. Dattu, CJ &**
Hon'ble Shri V.K. Shrivastava, J

WRIT PETITION NO. 2628 OF 2001

PETITIONER Shailendra Kumar Dwivedi, s/o. B.L. Dwivedi, aged about 30 years, r/o. Rajendra Nagar, Bilaspur.

Versus

RESPONDENTS

1) State of Chhattisgarh through the Secretary, School Education Department, D.K.S. Bhawan, Raipur (CG).

2) District Education Officer, Bilaspur District, Bilaspur.

3) Chief Executive Officer, Janpad Panchayat, Takhatpur, Dist. Bilaspur. (CG).

Present :

Shri P. Diwakar, Sr. Advocate with Shri Kunal Das, counsel for the petitioner.

Shri Sumesh Bajaj, Govt. Advocate for respondents No. 1 and 2.

Shri Sanjay K. Agrawal, counsel for respondent No.3.

ORAL ORDER

(Passed on 9th March, 2007)

The following oral order of the Court was passed by **H.L. Dattu, C.J.**

A person, who was appointed on compassionate ground to the post of Shiksha Karmi, Grade III, is before us in this writ petition filed under Article 226/227 of the Constitution of India, *inter alia*,

questioning the orders passed by the M.P. State Administrative Tribunal, Jabalpur ("the Tribunal", for short) in O.A.No. 578/1997 dated 13-10-1998,

2) Petitioner's father was lecturer in Govt. Higher Secondary School, Ganiyari, Dist. Blaspur. On his request he was permitted to retire from the service on medical ground. After making repeated representations to appoint him on compassionate ground and since there was no re-action from the respondents, the petitioner had approached the Tribunal for a direction to the respondents to consider the case of the petitioner and to pass appropriate orders in accordance with law. The Tribunal had disposed of the application filed by the petitioner and in that it had directed the respondents to consider the case of the petitioner for compassionate appointment within a particular time frame.

3) After disposal of the application, respondents have appointed the petitioner on compassionate ground to the post of Shiksha Karmi, Grade III. The petitioner was not satisfied with the job that was offered to him, therefore, he had filed a contempt petition before the Tribunal, *inter alia*, informing the Tribunal that the respondents have committed an act of contempt in not fully complying with the orders and directions issued by the Tribunal. The Tribunal has rejected the petition filed by the petitioner, that is how the petitioner is before us in this writ petition.

4) Shri P. Diwakar, learned Sr. Advocate appearing for the petitioner would contend that the respondents are not justified in

appointing the petitioner to the post of Shiksha Karmi Grade III, since that post is a temporary post and the possibility of respondents terminating the services of the petitioner, is writ large. He would further submit that under the scheme floated by the State Government the compassionate appointment could be made only to the post of "Patwari, Swasth Karmachari, Vanrakshak, Prahari, Aarakshak, Sahayak Shikshak, Aadi", and therefore, the respondents ought to have appointed the petitioner as Sahayak Shikshak alone, not to the post of Shiksha Karmi, Grade III.

5) In the instant case, the respondents have filed their return and in that they have stated that while making the application for appointment on compassionate ground, petitioner himself had requested the respondents to appoint him as Shiksha Karmi Grade- III and, therefore, the petitioner now cannot make out any ground for his appointment, not as Shiksha Karmi Grade-III, but as Assistant Teacher. They also contend that the scheme floated by the State Government only permits for appointment as Sahayak Shikshak alone. According to them, immediately after Sahayak Shikshak, expression 'Aadi' is used, which means 'etc.', therefore, petitioner could have been appointed as Sahayak Shikshak or any other post available to them.

6) We have carefully considered the rival submissions made by learned counsel for the parties to *lis*. We are of the opinion that learned Senior counsel may not be justified in contending that the offer that was made and the letter of appointment issued pursuant

thereto have any illegality whatsoever. We say so for the following reasons :

1. Firstly, the petitioner had gone before the respondents, *inter alia*, requesting them to appoint him on compassionate ground as Shiksha Karmi, Grade III. This request of the petitioner is considered by the respondents and have issued him a letter of appointment as Shiksha Karmi, Grade III.

2. Having asked a particular post to be given to him and having got that particular post, petitioner cannot make out any grievance. Even otherwise also, the scheme floated by the State Government does not restrict the appointment on compassionate ground only to "Patwari, Swasth Karmachari, Vanrakshak, Prahari, Aarakshak, Sahayak Shikshak. The scheme also used the expression "Aadi" (etc.), which only means that apart from whatsoever is stated earlier, the respondents can offer any other appointment to the person who comes before them seeking compassionate appointment.

7) Keeping all these aspects of the matter in view, the Tribunal has rightly rejected the contempt petition filed by the petitioner. We do not see any error in the order passed by the Tribunal. Therefore, we decline to entertain this writ petition. Accordingly, the petition is rejected. Ordered accordingly.

Sd/-
Chief Justice

Sd/-
V.K. Shrivatava
Judge